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2
3 UNITED STATES DISTRICT COURT

4 DISTRICT OF NEVADA

5 * * *

6 JASON S. BROWN,

Case No. 3:21-cv-00500-MMD-CSD

7 Plaintiff,

ORDER

8 v.

9 DR. ADAMSON, *et al.*,

10 Defendants.

11 *Pro se* Plaintiff Jason S. Brown brought this action against Defendants Richard
12 Fraley, Dr. Dana Marks, and Dr. Kim Adamson under 42 U.S.C. § 1983. (ECF No. 8.)
13 Before the Court is the Report and Recommendation (“R&R”) of United States Magistrate
14 Craig S. Denney, recommending that the Court deny Brown’s earlier-filed motion for
15 preliminary injunction (ECF No. 38), but grant his later-filed motion for preliminary
16 injunction (ECF No. 47) in certain, specified ways. (ECF No. 65.) Objections to the R&R
17 were due April 21, 2023. To date, neither Brown nor Defendants have objected to the
18 R&R. For this reason, and as explained below, the Court adopts the R&R in full and grants
19 Brown the preliminary injunctive relief specified at the conclusion of this order.

20 Because there was no objection, the Court need not conduct *de novo* review, and
21 is satisfied that Judge Denney did not clearly err. See *United States v. Reyna-Tapia*, 328
22 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and
23 recommendations is required if, but *only* if, one or both parties file objections to the
24 findings and recommendations.”) (emphasis in original). Judge Denney first notes his
25 agreement with Defendants that Brown’s first motion does not address the *Winter* factors,
26 so must be denied, but also notes that, contrary to some of Defendants’ arguments,
27 Brown is suffering from serious medical issues related to his claims. (ECF No. 65 at 8-9.)
28 Judge Denney then recommends the Court grant Brown’s second motion for preliminary

1 injunction because he is likely to prevail on the merits of his Eighth Amendment deliberate
2 indifference to serious medical needs claim, he will suffer irreparable harm (health
3 consequences) if no injunction issues, and the remaining two factors also favor awarding
4 Brown preliminary injunctive relief. (*Id.* at 9-20.) Judge Denney therefore recommends
5 the Court award Brown preliminary injunctive relief targeted at getting him adequate
6 medical care (*id.* at 20)—and the Court agrees with Judge Denney’s recommendations.
7 Accordingly, the Court adopts Judge Denney’s R&R in full and as specified below.

8 It is therefore ordered that Judge Denney’s Report and Recommendation (ECF
9 No. 65) is accepted and adopted in full.

10 It is further ordered that Brown’s first motion for a preliminary injunction (ECF No.
11 38) is denied.

12 It is further ordered that Brown’s second motion for a preliminary injunction (ECF
13 No. 47) is granted as specified below.

14 It is further ordered that Defendants must ensure that Plaintiff sees an NDOC
15 (Nevada Department of Corrections) physician at its medical facility at NNCC (Northern
16 Nevada Correctional Center) regarding his condition and symptoms that are the subject
17 of this action within **30 days**.

18 It is further ordered that Defendants must ensure that Brown has consultations with
19 both an ear, nose, and throat specialist (“ENT”) and a neurologist within **60 days**. The
20 consultations may be with an ENT and neurologist contracted with NDOC, however, if
21 there is no contracted ENT or neurologist, or if the contracted ENT or neurologist is not
22 available within the applicable timeframe, Plaintiff should be seen by an outside ENT or
23 neurologist.

24 It is further ordered that Defendants must file under seal the reports from the
25 appointments with the NNCC physician, the ENT, and the neurologist within 75 days.

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1 It is further ordered that Defendants must ensure that Brown's treating physician
2 at NNCC goes over the reports with him, and that he is given an opportunity to review the
3 reports by kiting the warden's office.

4 DATED THIS 26th Day of April 2023.

A handwritten signature in blue ink, appearing to read 'Miranda M. Du', is written above a horizontal line.

6 MIRANDA M. DU
7 CHIEF UNITED STATES DISTRICT JUDGE